

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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SCOTT BOEHM and DAVID STLUKA,

Plaintiffs,

v.

ORDER

DAN ZIMPRICH; CIARA ZIMPRICH; LEGENDS  
OF THE FIELD, LLC; SPORTS PLUS, LLC;  
GAMEDAY SPORTS; and RICHARD MONCHER,

14-cv-16-jdp

Defendants.

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The parties in this case settled long ago. When they did, plaintiffs voluntarily dismissed defendants under Federal Rule of Civil Procedure 41(a)(1)(A)(ii) *with prejudice*. Dkt. 174; Dkt. 175; Dkt. 176. Those dismissals removed this case from this court's jurisdiction.

The settlement has since fallen through, and plaintiffs have been trying—unsuccessfully—to reopen the case so that they may continue litigating the copyright infringement claims that were part of the breached settlement. Dkt. 199. They do not want to press a claim for breach of the settlement agreement; they want to proceed as though the dismissal never happened. But the court already determined that they may not do so. Dkt. 210. Plaintiffs argue that defendants did not merely breach the settlement agreement, they repudiated it, rendering the settlement a nullity. On this basis, they have moved for reconsideration. Dkt. 211.<sup>1</sup> Their motion will again be denied.

The court is not persuaded. “If parties settle litigation that arose under federal law, any contest about that settlement needs an independent jurisdictional basis.” *Magruder v. Fid.*

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<sup>1</sup> Defendants move for leave to file a response. Dkt. 212. Their motion will be granted.

*Brokerage Servs. LLC*, 818 F.3d 285, 288 (7th Cir. 2016). Plaintiffs have no independent jurisdictional basis under either 28 U.S.C. § 1331 or § 1332. And Rule 60 does not apply: there were no mistakes in the dismissal; nor was any misconduct or new evidence discovered. There is no reason to grant plaintiffs relief from the dismissal. If defendants have repudiated the settlement agreement, plaintiffs' remedies are contract remedies. Plaintiffs' motion to reconsider will be denied.

ORDER

IT IS ORDERED that:

1. Plaintiffs Scott Boehm and David Stluka's motion for reconsideration, Dkt. 211, is DENIED.
2. Defendants' motion for leave to file a brief in response, Dkt. 212, is GRANTED.

Entered September 2, 2016.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge